UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Antonio Diego VASQUEZ-Hernandez,** Defendant	Magistrate Docket No. '08 MJ 2758 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **September 7, 2008** within the Southern District of California, defendant, **Antonio Diego VASQUEZ-Hernandez,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Dwain R. Holmes Jr.
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **8th DAY OF SEPTEMBER, 2008**

Louisa S. Porter
UNITED STATES MAGISTRATE JUDGE

DOA 9/7/08

CONTINUATION OF COMPLAINT:
Antonio Diego VASQUEZ-Hernandez

PROBABLE CAUSE STATEMENT

On September 7, 2008, at approximately 12:40 A.M., Border Patrol Agent J. Grigsby was performing line watch duties in an area known as "57 Wash." The 57 Wash is approximately two miles west of the San Ysidro, California, Port Of Entry and is approximately 100 yards north of the United States/Mexico International Boundary Fence. The 57 Wash is an area that is notoriously used by illegal aliens attempting to further their illegal entry into the United States.

Dispatch advised Agent Grigsby via service radio of seismic intrusion device activation nearby. Subsequently, a United States Customs and Border Protection Air/Marine Unit helicopter told Agent Grigsby via service radio that he observed one individual, who was later identified as the defendant **Antonio Diego VASQUEZ-Hernandez**, lying in some brush near the reported sensor area. Agent Grigsby responded to the location and searched the area. While searching the area Agent Grigsby observed VASQUEZ lying in the brush as if he was attempting to hide. Due to the fact that this area is notorious for illegal alien intrusions, the device activation, the helicopter operator's observation, and the close proximity to the border, Agent Grigsby questioned VASQUEZ as to his country of citizenship and nationality. VASQUEZ freely admitted that he was a citizen and national of Mexico and that he did not possess any immigration documentation that would allow him to enter or remain in the United States legally. Agent Grigsby arrested VASQUEZ at 12:45 A.M., and arranged for him to be transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **August 14, 2008** through **Nogales, Arizona.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was read his Miranda rights, which he acknowledged and was willing to make a statement without an attorney present. The defendant stated that he was a citizen and national of Mexico without valid immigration documents to enter or remain within the United States legally. The defendant admitted to having been previously deported and stated that he had not applied for permission to re-enter the United States following his deportation.